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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/606,790

06/28/2000

Bich Nguyen

2705-118

6318

20575 7590 07/16/2007  
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EXAMINER

JACOBS, LASHONDA T

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

07/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/606,790	<b>Applicant(s)</b> NGUYEN ET AL.	
	<b>Examiner</b> LaShonda T. Jacobs	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2007.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 9-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

This Office Action is in response to Applicants' Notice of Appeal filed on February 28, 2007 in which prosecution has been re-opened. Claims 1-6 and 9-20 are presented for further examination.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 and 9-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Ravi et al (hereinafter, "Ravi", U.S. Pat. No. 6,292,834).

As per claim 1, Ravi discloses a server for transmitting data over a network to client having a de-jitter buffer, the server comprising:

- a regular path for transmitting data received from a source at a regular rate (col. 6, lines 32-47); and
- a first buffer in the regular path for buffering data from the source prior to transmission to the client (col. 7, lines 35-55);

Art Unit: 2157

- a burst path for transmitting data received from the source at a burst rate higher than the regular rate before playout at the client distinct from the regular path at least in part (col. 7, lines 35-55);
- a second buffer in the burst path for buffering data from the source prior to transmission to the client, and for transmitting the buffered data to the client at the burst rate before playout at the client (col. 7, lines 35-55 and col. 8, lines 25-39); and
- a switch for selecting to transmit data from one of the regular path and the initial burst path (col. 9, lines 50-63).

As per claim 2, Ravi discloses:

- a control unit for switching the switch (col. 9, lines 50-63).

As per claim 3, Ravi discloses:

- a monitor that measures an amount of the data is output through the burst path (col. 7, lines 16-34));
- wherein the control unit switches the switch when a preset measure of the data is output through the burst path (col. 9, lines 50-63).

As per claim 4, Ravi further discloses:

- a network bandwidth monitor (col. 9, lines 17-25 and lines 50-63);
- a controller that controls a fill level of second buffer according to the monitored bandwidth (col. 9, lines 17-25 and lines 50-63).

As per claim 5, Ravi further discloses:

- a transcoder for transcoding the buffered streaming media output through the burst path (col. 6, lines 31-46).

Art Unit: 2157

As per claim 6, Ravi further discloses:

- a network bandwidth monitor (col. 9, lines 17-25 and lines 50-63); and
- transcoder for transcoding the buffered streaming media output through the burst path if the monitored bandwidth becomes less than a preset bandwidth (col. 6, lines 31-46 and col. 9, lines 50-63).

As per claims 9 and 15, Ravi discloses a method for a server for retransmitting streaming media to a network comprising:

- means for receiving a first portion of the streaming media from a source along a first path (col. 6, lines 32-47);
- means for buffering the first portion prior to transmission to a client and outputting the buffered first portion to the client through the first path at a first rate before the playout at the client (col. 7, lines 35-55 and col. 8, lines 25-39);
- means for receiving a second portion of the streaming media from the source along a second path distinct from the first path at least in part (col. 6, lines 32-47); and
- means for transmitting the second portion to the client on the network through the second path at a second rate lower than the first rate (col. 6, lines 31-58).

As per claims 10 and 16, Ravi discloses:

- means for switching to outputting from the second path, from outputting from the first path (col. 9, lines 50-63).

As per claims 11, Ravi further discloses:

- means for storing the first portion (col. 6, lines 32-47).

As per claim 17, Ravi further discloses:

Art Unit: 2157

- storing the first portion in an initial burst transmit buffer (col. 6, lines 32-47).

As per claims **12** and **18**, Ravi further discloses:

- means for monitoring a bandwidth of the network (col. 9, lines 17-25 and lines 50-63);  
and
- means for controlling a size of the first portion according monitored bandwidth (col. 9, lines 17-25 and lines 50-63).

As per claims **13** and **19**, Ravi further discloses:

- means for transcoding the first portion (col. 6, lines 31-46 and col. 9, lines 50-63).

As per claims **14** and **20**, Ravi further discloses:

- means for monitoring a bandwidth of the network (col. 9, lines 17-25 and lines 50-63);  
and
- means for transcoding the first portion if the monitored bandwidth becomes less than a preset bandwidth (col. 6, lines 31-46 and col. 9, lines 50-63).

### ***Response to Arguments***

3. Applicant's arguments with respect to claims **1-6** and **9-20** have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LaShonda T. Jacobs whose telephone number is 571-272-4004.

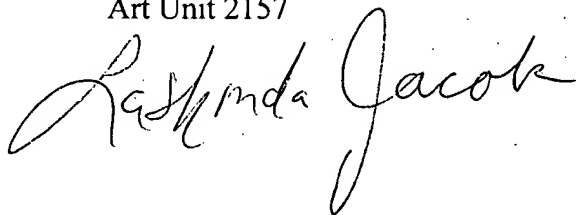
The examiner can normally be reached on 8:30 A.M.-5:00 P.M..

Art Unit: 2157

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LaShonda T Jacobs  
Examiner  
Art Unit 2157

A handwritten signature in cursive script, reading "LaShonda Jacobs", written in black ink.

ltj  
July 9, 2007